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STATEMENT OF WILL KEMPTON
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BEFORE THE
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

APRIL 24, 2007

Introduction

Mr. Chairman, members of the Subcommittee:

My name is will Kempton. I am the Director of the California Department of Transportation, also known as Caltrans. I would like to thank you for the invitation to testify before you today.

As director of Caltrans, I am responsible for a budget of 12 billion dollars, an organization of more than 22,000 employees, and a transportation system that among other things, includes 50,000 miles of State highways, two of the five largest transit systems in the nation, three Amtrak routes and the two busiest ports in the United States. California is growing rapidly, by 2020 its population is expected to increase by 29 percent to 44 million people, annual vehicle miles traveled will increase by 38 percent to 475 billion miles and trade volumes through its ports will more than double. Responding to this growth is a priority for the State. Our objectives are to protect the existing investment, fuel the economy, and enhance the quality of life of our citizens. Achieving this will require a substantial effort. Governor Arnold Schwarzenegger's Strategic Growth Plan calls for investing 107 billion dollars over the next ten years. We are gearing up our program to accomplish this objective by expanding our contracting, labor and materials capacity.

The Department has just achieved a milestone in its history, having reached the 10 billion dollar mark in the value of contracts currently under construction. In addition, California voters have authorized the issuance of 19.925 billion dollars in bonds to upgrade the State's transportation system. As welcome as these new dollars are, they are just a down payment on the significant infrastructure needs in the State. Needs that remain greater than available funding.

The participation of the federal government has been, and will continue to be a key element in the success of the transportation program in the State of California. The Department strives to maintain a strong working relationship with the federal government, a critical partner in the movement of people and goods in California.

Federal Participation in the Current State Highway Program and Buy America Requirements

You have asked me to comment on the State's response to the Buy America provisions of the federal program. California's State Transportation Improvement Program and the State Highway Operation and Protection Program will allocate 2.89 billion dollars in highway work during the State Fiscal Year 2006-2007. This includes 1.6 billion dollars in federal contributions. The value of the State portion of these programs will increase significantly next year because of the Proposition 1B Bond Program.

Buy America requirements are included in construction contracts for all federally funded State highway projects, and requests for waivers are few in number. Over the last five years, the Department was granted a total of six Buy America waivers for three projects. All of these waivers relate to specialty items with questionable domestic availability. Two of these waivers involve the Toll Bridge Seismic Retrofit Program, which I will discuss in more detail later. It is important to note that even when waivers are requested and granted, the waivers are limited in scope, and Buy America requirements continues to apply to the majority of work under the construction contracts in which waivers are granted.

Buy America requirements are not included in California highway construction contracts that have no federal funding. The California legislature has not authorized the use of Buy America requirements in highway construction contracts solely funded by State and local dollars. The number of such contracts is increasing every year. Highway infrastructure needs are mounting, but available State dollars have remained relatively constant. That will change over the short term due to the availability of bond funding. However local funding, through sales tax measures directed at specific transportation improvements, is steadily increasing and combined State and local dollars regularly exceed the amount required to leverage available federal obligation authority. This results in an increasing number of highway construction contracts that do not have federal funding, and therefore have no Buy America requirements associated with the process.

However, the lack of a Buy America requirement in non-federal projects does not equate to non-use of American goods. For a conventional State highway project, domestic sources are likely for most materials, regardless of the presence or lack of a Buy America requirement in the construction contract. For example, reinforcing steel and steel piles used in State highway projects are usually sourced from a domestic supplier, as the cost of domestic sources remains competitive with international sources.

The Toll Bridge Seismic Retrofit Program

The impact of Buy America requirements can be seen in highway construction involving major steel structures. The State is the owner and operator of seven long span toll bridges, and many of these bridges use steel for major structural elements. This is in addition to reinforcing steel used in concrete elements of the bridges. These seven bridges are located in the San Francisco Bay Area. Over the past 12 years, the Department has been engaged in a major program involving construction on these bridges: The Toll Bridge Seismic Retrofit Program.

The Toll Bridge Seismic Retrofit Program involves an aggressive effort to retrofit the Department's toll bridges to address their vulnerability to earthquakes. In some cases, retrofit has been achieved through modifications of the existing bridges, while in other cases complete replacement of the bridges has been required.

Approximately 500 million dollars in federal funds have supported various parts of this 8.7 billion dollar undertaking. Federal funds represent around six percent of total funding for the program. Buy America requirements have been included in all construction contracts that have any amount of federal funding.

The seismic retrofit of the San Francisco-Oakland Bay Bridge provides a clear example of the effect of Buy America requirements on a construction contract involving major structural steel elements.

The Bay Bridge is the backbone of the regional transportation network in the Bay Area. It is the third busiest bridge in this country with average daily traffic of 280,000 vehicles. There are three major components to the Bay Bridge – the West Approach to the bridge, located in San Francisco, the West Span, a series of suspension spans between San Francisco and Yerba Buena Island, and the East Span, a combination of steel cantilever and steel truss spans between Yerba Buena Island and Oakland.

The East Span was seriously damaged in the 1989 Loma Prieta earthquake. This was a magnitude 6.9 earthquake with an epicenter near the San Andreas Fault, more than 60 miles away from the East Span. The Bay Bridge was closed for six weeks, with daily life and the regional economy experiencing serious disruption. Following this event the vulnerability of the East Span to another earthquake of similar magnitude was the motivating factor that initiated the Toll Bridge Seismic Retrofit Program. Without attention to this effort, the East Span is likely to suffer large-scale failure in the event of a major earthquake in the region.

The Department determined that replacement of the East Span was necessary to address the identified seismic vulnerability. This vulnerability is of great concern, as there is a high probability of a major earthquake striking the Bay Area in the near future. The United States Geological Survey estimates that there is a 62 percent probability of a major earthquake in the Bay Area in the next 25 years.

As part of the retrofit strategy, a design for a new East Span bridge was developed. From east to west, the new design begins in Oakland with a mile and one-half long concrete viaduct leading to a unique quarter-mile long self-anchored suspension bridge that connects to another quarter-mile long concrete viaduct on Yerba Buena Island. Construction of the East Span has been underway since 2002. Rapid completion of this project is one of the Department's highest priorities. The construction contract for the self-anchored suspension bridge was advertised in 2003 with a Buy America requirement included in the contract. Bids for the self-anchored suspension bridge were required to include two estimates: a cost utilizing domestic steel and a cost utilizing international steel. Only one bid was received, with a cost of 1.8 billion dollars utilizing domestic steel, and 1.4 billion dollars utilizing international steel. The Department was unable to award the contract as the costs for both alternatives were well in excess of available

funding. However, the bid results clearly indicated the disparity that sometimes exists for domestic products versus foreign alternatives.

The construction community provided input that indicated the Buy America requirement had the effect of discouraging bidding on the self-anchored suspension bridge contract. Contractors believed the technical complexity of the steel elements of the self-anchored suspension bridge, and the limited availability of major domestic steel fabricators introduced a great deal of risk into bidding on the contract.

Additional funding for the program was identified in 2005. Because of the urgency associated with the project, a decision was made to reduce the risks identified by the construction community by eliminating federal funding from the self-anchored suspension bridge contract and readvertising the project without a Buy America requirement. Two bids were received in 2006. The American Bridge Company of Pittsburgh was the successful low bidder with a bid of 1.4 billion dollars. Steel fabrication for the self-anchored suspension bridge will occur in China, Korea, England and the United States.

It is interesting to note that, on completion of the entire East Span, the majority of the steel tonnage included in the project will still be domestic steel, as the quantity of domestically supplied reinforcing steel and steel piles will be greater than the quantity of major structural steel elements. Overall, our program will continue to require use of American products when federal funds are involved. Moreover, our experience on jobs working with State funds demonstrates that market forces continue to dictate a high level of usage of American products in these projects as well. Nonetheless, if special requirements for certain projects result in a distinct advantage for the use of foreign products primarily in the area of cost or production differentials, it may be necessary from a fiduciary perspective to use foreign suppliers for certain project work. This is good for us and it is good for the national economy.

Conclusion

Mr. Chairman, thank you again for the opportunity to appear before your Subcommittee. I would be happy to answer any questions.